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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,577	12/29/2003	Eric Zimmermann	Zimmermann-1 PCT-US	8923

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EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/750,577	ZIMMERMANN, ERIC	
	Examiner	Art Unit	
	Gregory J. Strimbu	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/3/04</u> . | 6) <input type="checkbox"/> Other: ____. |

Specification

The abstract of the disclosure is objected to because "within the frame" on line 7 is confusing since it is unclear how the cover rotates in the frame when it appears that the cover rotates with respect to the frame. Correction is required. See MPEP § 608.01(b).

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested that the applicant amend the title to include the linked rotation of the handle and the rotation of the door.

Claim Objections

Claim 3 is objected to because it contains two periods. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1-13, 19, 20, 22 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "coupled to the frame" on line 3 of claim 1 render the claims indefinite because it is unclear if the applicant is claiming the subcombination of a device or the combination of a device and a frame. The preamble of claim 1 implies the former while the positive recitation of the frame implies the latter. Recitations such as

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"said door" on line 4 of claim 1 render the claims indefinite because they lack antecedent basis. Recitations such as "grabs said handle, said at least one rotatable shaft rotates" on lines 12-13 of claim 1 render the claims indefinite because it is unclear how merely grabbing the handle can cause rotation. It appears that rotation of the handle would cause rotation of the shaft rather than merely grabbing the handle. Recitations such as "within said frame" on line 16 of claim 1 render the claims indefinite because it is unclear how the covering rotates in the frame. It appears that the covering rotates with respect to the frame rather than in it. Recitations such as "said at least one rotation shaft" on lines 2-3 of claim 2 render the claims indefinite because it is unclear if the applicant is referring to the at least one additional rotational shaft or is referring to the at least one rotatable shaft. Recitations such as "rotational" on line 4 of claim 2 should be changed to --rotatable-- to agree with the previous recitations of the handle. Recitations such as "a bevel gear . . . both ends of said rotational shaft" on lines 2-4 of claim 4 render the claims indefinite because it is unclear how one gear can be at both ends of the shaft. Recitations such as "a bevel gear" on line 1 of claim 5 render the claims indefinite because it is unclear if the applicant is referring to the at least one additional gear set forth above or is attempting to set forth another gear in addition to the one set forth above.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11

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F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-5, 7-16 and 23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,574,921. Although the conflicting claims are not identical, they are not patentably distinct from each other because the hinge comprises the at least one coupling and the at least one stationary shaft is coupled to said rotatable shaft via the plurality of bevel gears.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Aumiller et al. Aumiller et al., in figures 7-9, discloses a device for covering openings having a frame in a buildings comprising a covering 20 coupled to a frame 14'; at least one hinge 83 for coupling said covering to said frame; at least one rotatable handle 31', rotatably

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coupled to said covering; at least one rotatable shaft 74 coupled to said rotatable handle; and at least one stationary shaft 82 coupled to said rotatable shaft; a drive means 81 for coupling said at least one stationary shaft and said at least one rotatable shaft together, said drive means 81 for rotating said handle when said covering rotates, wherein when said covering rotates within the door frame, said at least one rotatable shaft rotates around said at least one stationary shaft using said drive means and causing said at least one rotatable handle to rotate as said covering is rotating.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciavaglia et al. in view of Ponziani. Ciavaglia et al. discloses a device for covering openings in buildings the openings having a frame and the device comprising: a covering 12 for being coupled to a frame (not numbered, but shown in figure 1); at least one coupling 42 for coupling said door to said frame; at least one rotatable shaft (not numbered, but shown in figure 2 as the shaft for the planetary gear 34) coupled to said covering; at least one stationary shaft 20 coupled to said rotatable shaft, a plurality of gears with at least one gear 34 coupled to said rotatable shaft and at least one additional gear 30 coupled to said stationary shaft wherein when a user opens the

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covering, said at least one rotatable shaft rotates with said at least one gear rotating around said at least one additional gear on said at least one stationary shaft causing said at least one covering to rotate within said frame. Cavaglia et al. is silent concerning a rotatable handle.

However, Ponziani discloses a rotatable handle 22, wherein when a user grabs the handle 22, it causes the covering 10 to rotate with respect to a frame (not shown).

It would have been obvious to one of ordinary skill in the art to provide Ciavaglia et al. with a handle, as taught by Ponziani, to enable a person to open the covering from the exterior of the opening.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ciavaglia et al. in view of Ponziani as applied to claims 1, 7 and 23 above, and further in view of Rogers et al. Rogers et al. discloses a covering 14 comprising a window (not numbered, but shown in figure 1).

It would have been obvious to one of ordinary skill in the art to provide Ciavaglia et al., as modified above, with a window, as taught by Rogers et al., to enable a person to see through the covering.

Claims 14, 16-20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciavaglia et al. in view of Ponziani and Dailey. Ciavaglia et al. discloses a door 12 disposed in a door frame (not numbered, but shown in figure 1) the door having a drive device comprising: at least one rotatable shaft (not numbered, but

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shown in figure 2 as the planetary shaft for gear 34) fixedly coupled to said door; at least one additional rotatable shaft (not numbered, but shown in figure 2 as the planetary shaft for gear 36); at least one stationary shaft 20 coupled to the frame; and a plurality of gears with at least one gear 34, 36 attached to each of said rotatable shaft, said additional rotatable shaft and said stationary shaft, so that when a user pulls on said handle, said rotatable shaft rotates with said additional rotatable shaft, wherein an additional rotatable shaft gear 32 selected from said plurality of gears meshes with a stationary gear 30 coupled to said stationary shaft, a gear box 16, 42. Ciavaglia et al. is silent concerning a rotatable handle and shafts that rotate with respect to the door.

However, Ponziani discloses a rotatable handle 22, wherein when a user grabs the handle 22, it causes the covering 10 to rotate with respect to a frame (not shown), the handle includes curved handle supports (not numbered, but shown in figure 5 on the top surface of the handle 22) and the handle is generally U-shaped as shown in figure 2.

It would have been obvious to one of ordinary skill in the art to provide Ciavaglia et al. with a handle, as taught by Ponziani, to enable a person to open the covering from the exterior of the opening.

Additionally, Dailey discloses fixedly mounting gears 64 to shafts 80 which rotate with respect to a mounting structure 84.

It would have been obvious to one of ordinary skill in the art to fixedly mount the gears onto the shafts Ciavaglia et al., as taught by Dailey, to increase the amount of

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radial force the gear/shaft combination can withstand by increasing the bearing surface of the shaft/gear combination.

Allowable Subject Matter

Claims 2-6 and 9-12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, absent applicant's own disclosure, fails to teach the entire combination of elements set forth in the claimed invention. Specifically, the prior art of record fails to teach at least one additional rotational shaft, wherein said at least one rotational shaft extends coaxially with said at least one rotational handle and said at least one additional rotational shaft is coupled to said at least one rotational shaft so that when said at least one rotational shaft rotates, it rotates said at least one additional rotational shaft. See claim 2, lines 1-7.

Claim 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, absent applicant's own disclosure, fails to teach the entire combination of elements set forth in the claimed invention. Specifically, the prior

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art of record fails to teach said at least one rotatable handle rotates on approximately a 2: 1 ratio with the door as the door rotates. See claim 15, lines 1-3.

Claim 21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, absent applicant's own disclosure, fails to teach the entire combination of elements set forth in the claimed invention. Specifically, the prior art of record fails to teach the handle comprising an elongated handle extending a majority of a height of the door.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reynaud, Bunzl, Mims, Merrill, Harrison, Zimmer, and Freeman are cited for disclosing a geared system for rotating a covering.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a stylized flourish at the end.

Gregory J. Strimbu
Primary Examiner
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October 28, 2005